

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EIS, INC.,)
)
Plaintiff,)
)
v.) C.A. No. 19-1227 (GBW)
)
INTIHEALTH GER GMBH,)
WOW TECH USA, LTD.,)
WOW TECH CANADA, LTD. and)
NOVOLUTO GMBH,)
)
Defendants.)
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NOVOLUTO GMBH,)
)
Counterclaimant,)
)
v.)
)
EIS, INC., EIS GMBH,)
TRIPLE A IMPORT GMBH,)
and TRIPLE A MARKETING GMBH,)
)
Counterclaim Defendants.)

**PLAINTIFF AND COUNTERCLAIM-DEFENDANTS' MOTION TO STRIKE
UNTIMELY DISCOVERY AND EXPERT DISCLOSURES**

Pursuant to Paragraph 4 of the Scheduling Order (D.I. 288), Plaintiff EIS Inc. and Counterclaim-Defendants EIS GmbH, Triple A Import GmbH, and Triple A Marketing GmbH (collectively, "EIS") move to strike new infringement theories and expert opinions that Defendant and Counterclaimant Novoluto GmbH ("Novoluto") first disclosed in reply expert reports and a supplemental interrogatory response served after expert reports. The grounds for this motion are set forth in EIS's Letter Brief submitted herewith.

Pursuant to D. Del. LR 7.1.1, counsel for EIS has conferred with Novoluto's counsel who indicated that Novoluto will oppose this Motion.

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May 9, 2023

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and TRIPLE A MARKETING GMBH,)
)
Counterclaim Defendants.)

[PROPOSED] ORDER

Having considered Plaintiff and Counterclaim-Defendants' Motion to Strike Untimely Discovery and Expert Disclosures ("Motion to Strike")

IT IS HEREBY ORDERED, this _____ day of _____, 2023, that:

1. Plaintiff and Counterclaim-Defendants' Motion to Strike is Granted; and
2. Paragraphs 77 and 117-120 of Dr. Cameron's Reply Expert Report and paragraph 111 of Dr. Herbenick's Reply Expert Report concerning a new infringement theory for the "chamber" are stricken;
3. Novoluto's Supplemental Response to Interrogatory No. 8, paragraph 147 of

- Dr. Cameron's Reply Expert Report, and paragraphs 118-138 of Dr. Herbenick's Reply Expert report concerning a new induced infringement theory are stricken;
4. Paragraphs 53-57, 64, 68, and 71 of Dr. Cameron's Reply Expert Report, and paragraph 80 of Dr. Herbenick's Reply Expert Report concerning the claimed "nozzle effect" are stricken;
 5. Paragraphs 92-95 of Dr. Cameron's Reply Expert Report and paragraphs 104-106 of Dr. Herbenick's Reply Expert Report concerning the claimed "sealing bearing part" are stricken.

UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on May 9, 2023, upon the following in the manner indicated:

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